

Review: Conflict of interest

January 18, 2012

REVIEW

Summary: This review concerns a public complaint of a conflict of interest involving Stephen Smart, a legislative reporter for CBC British Columbia whose wife is employed in the premier's office. I found a violation of CBC Journalistic Standards and Practices.

On December 20, 2011, Merv Adey wrote CBC News to express concern there was an apparent conflict of interest involving its British Columbia legislative journalist, Stephen Smart, based in Victoria.

Rebecca Scott was in March 2011 appointed communications officer and deputy press secretary for Premier Christy Clark in an order-in-council. She was then engaged to Smart; the two have since married.

"Given his marriage to a political advisor to (Premier) Christy Clark, the conflict of interest is apparent, and while I respect Mr. Smart, the situation damages the credibility of CBC and its impartiality," Adey wrote.

On January 3, 2012, the news director for CBC British Columbia, Wayne Williams, wrote Adey on the matter.

"While I fully appreciate that there could be a perception of conflict of interest here, I can assure you there is no conflict of interest in fact," Williams wrote. "Nor, I notice, do you offer a credible example of the conflict you see. Indeed, we have taken steps to ensure that there is, and continues to be, no conflict."

Williams said Smart enjoys his full confidence for his integrity and professionalism. He has been CBC's legislative reporter since 2010.

He said Smart's wife, Rebecca Scott, accepted a position in Clark's office in 2011 as "one of a number of press secretaries or assistants in the office whose principal job it is to

advise the premier on constituency matters and prepare background briefing summaries for particular issues or upcoming events. As well, she helps the premier's office in the use of social media such as Twitter and Facebook."

She does not advise the premier on policy matters, Williams wrote. One of her roles is as a "point of contact for reporters who want to ask questions of the premier or request interviews. She has no final say in what requests are granted."

Williams emphasized that Smart's requests are handled by Scott's boss or by the premier's press secretary and not by her.

Williams agreed that credibility is an essential attribute of any journalistic organization and that CBC had policies and guidelines to help journalists and managers avoid conflicts of interest. "But important as they are, their application must be guided by applicable laws and precedents."

Williams said that in recognition "there could be a perception of conflict of interest, we have taken specific steps to address the issue, ensuring both distance and transparency."

Williams wrote that Smart was not self-assigning. All CBC News stories, including Smart's, are assigned, edited, vetted and approved by senior editors. Beyond that was a separate "protocol" created for Smart that directly prohibited him from reporting stories in which Scott was a principal or a sole spokesperson, Williams wrote.

For this review CBC furnished the protocol, dated March 29, 2011, shortly after Scott assumed her role as a political appointment through an order-in-council in the premier's office. It also notes Smart will not cover stories in which Scott "is the primary source where alternate documents or materials are not available."

Adey wrote January 4. "I do not wish to impugn Mr. Smart's ability or character. However, I believe it's impossible for him to fairly carry out his job while married to the premier's friend and communications person, namely Rebecca Scott."

Adey went on: "One of a reporter's first duties is to think and speak with a critical mind about his subject (in this case, the premier and her government and the opposition parties also). While married to a stakeholder in a political non-contract position, I think that's really too much to ask of him."

While Williams had outlined procedures designed to avoid dealings during office hours between Smart and Scott, "he has to deal with his wife when he goes home every night. If he were to discover something that exposed malfeasance and reflected poorly on the premier, he may find himself in considerable distress while investigating and reporting on that."

Adey added: “Mr. Williams noted that I provide ‘no credible example’ of bias. I do not need to provide one. For conflict of interest to exist, only the potential for a problem needs to exist.”

Adey did add, though, that CBC News did not report on an out-of-court settlement involving a public servant, a controversy that eventually cost the Liberal government millions of dollars. He speculated CBC would have done so if there were an NDP and not a Liberal government.

[CBC Journalistic Standards and Practices](#) note: *“The trust of the public is our most valued asset. We avoid putting ourselves in real or potential conflict of interest. This is essential to our credibility.”*

There is an extensive policy on the issue of conflict of interest, both in the journalistic standards and at a [corporate level](#).

The journalistic policy states: *“The credibility of CBC News and current affairs rests on the reputation of its journalists who are, and are seen to be, independent and impartial.”*

It discusses the relationship between reporters and family members. *“If a current affairs or news employee has a close relative, defined as spouse, parent, child or sibling who is a major actor in a story, that employee cannot be involved in the coverage.”*

The corporate policy states: *“No conflict should exist or appear to exist between the private interests of CBC/Radio-Canada employees and their official duties.”* It adds: *“All employees shall place and appear to place the interests of their employer above their own interests.”* It also notes, among other things, employees must not accord preferential treatment or engage in activities that bring the corporation into disrepute.

“The duty to disclose and remove conflicts of interest rests with the employee,” the corporate policy says.

Exceptions can be made to the provisions and application of the policy by the CBC president or his delegate *“if the interests of the corporation are clearly better served.”*

In the [corporate code of conduct](#), CBC strives for the highest level of integrity and ethical behaviour. *“Compliance with both the letter and the spirit of the law, the exercise of good judgment in avoiding or dealing with conflicts of interest, the protection of privacy, and maintaining confidentiality are further elements that are critical to achieving the corporation’s goals in this regard.”*

The code of conduct says employees must adhere to the highest standards and ensure *“their personal interests do not come into conflict with those of the corporation. If a conflict does arise, it must be resolved in favour of the best interests of the corporation.”*

It means that *“employees are required to perform their duties and arrange their private affairs in a manner that will prevent actual, apparent or potential conflicts of interest from arising”* and *“act in a manner that will bear the closest scrutiny in all dealings related to the corporation or their responsibilities as employees.”*

CONCLUSION

I chose not to review the element of the complaint dealing with the story CBC did not cover, given the limited scope of this Office to deal with story selection of CBC News. Typically, covering or not covering a single story would not imply bias. Policy permits CBC to carry a range of perspectives over a reasonable period of time. It would only be possible to review such a complaint about bias if there were a clearer journalistic pattern involved.

There was another issue to review here.

CBC and Smart attempted to minimize the conflict of interest’s effect. Smart acted responsibly by informing CBC of the job offer to his fiancée on the same day she received it. CBC News expressed its concerns to him and decided following discussions within the wider corporation to create a unique protocol for his professional dealings with his partner and the premier’s office.

There is no evidence he has taken advantage of his wife’s role. Even the complainant praises his journalistic qualities.

But just because there is no impropriety does not mean there is no conflict. Whether a real or perceived conflict of interest, no amount of managing it can do more than mitigate the impact on an impartial fulfillment of duties.

In this instance some of Smart’s central political reporting functions that involve dealings with the premier and her opponents are affected or impeded. He also bears an unavoidable conflict of commitment in which professional responsibilities commingle with moral obligations in other legitimate personal roles in his life.

CBC journalistic policies are designed to be congruent with corporate policies that call for an avoidance of real or perceived conflict of interest, bearing of the greatest scrutiny, and exceptions only when the corporation’s interests are clearly better served.

Smart can report with integrity, and CBC’s protocol can combine disclosure and recusal, but the pervasive appearance of a conflict of interest will continually challenge their

reputations. It is hard to see how an arrangement with the potential to diminish the effectiveness of CBC's journalism and public standing serves an interest worthy of a policy exception.

My role isn't to sort through the challenge of resolving this matter in accordance with labour law or collective agreements. My role is simply to assess the situation against policy in light of the public complaint. As it stands there is a violation of CBC Journalistic Standards and Practices.

Kirk LaPointe
CBC Ombudsman